BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **27.09.2021**

CORAM

THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P.(MD)No.17519 of 2021

Krishnamurthy .. Petitioner

Vs.

1. The Block Development Officer,
Gandharvakottai,
Pudukottai District.

2. The President,
Gandharvakottai Village Panchayat,
Gandharvakottai,
Pudukottai District. .. Respondents

Prayer: Writ Petition is filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, directing the respondents herein to consider the petitioner representation dated 14.09.2021 and issue the house tax demand and receipt in respect of the petitioner thatched shed with asbestos roof in Survey No.150/1A/1 situated at Koviloor Revenue Village, Gandarvakottai Taluk Pudukottai District within the time stipulated by this Court.

For Petitioner : Mr.B.Jameel Arasu

For Respondents : Mr.R.Ragavendran
Government Advocate

ORDER

Prayer sought for herein is for a Writ of Mandamus, directing the respondents herein to consider the petitioner's representation dated 14.09.2021 and issue the house tax demand and receipt in respect of the petitioner's thatched shed with asbestos roof in Survey No.150/1A/1 situated at Koviloor Revenue Village, Gandarvakottai Taluk Pudukottai District within the time stipulated by this Court.

2.Insofar as the property at Survey No.150/1A/A situated at Koviloor Village, Gandarvakottai Taluk, Pudukottai District, the original owner of the property is one Vairavan Chettiyar, from whom it seems that the said property was taken on lease by some third parties and periodically, the possessory right that is the lease hold right seems to have been transferred to some other third parties and ultimately it had come to the petitioner from one Mathiyalagan S/o.Ragupathy under the transfer of possessory right deed dated 17.09.2020.

3.In the said land, the petitioner has already put up some shed for doing some business, which was according to the petitioner, has been assessed for property tax by the second respondent/Panchayat and professional tax also has been levied and in this regard, property tax receipt as well as the professional tax receipt has been issued by the Panchayat to the petitioner on 30.06.2021.

4.Adjacent to the said property, he has put up another shed for the purpose of residing of the workers. Therefore, that property also, according to the petitioner, has to be assessed for property tax and in this regard, he has given a representation to second respondent/Panchayat on 14.09.2021. Therefore, in order to consider the said representation, the petitioner seeks a direction by way of Mandamus, that is how, this Writ Petition has been filed with the aforesaid prayer.

5.Heard, Mr.B.Jameel Arasu, learned counsel appearing for the petitioner and he woul would submit that, even though the original owner is Vairavan Chettiyar, from whom, the lease hold right has been obtained by the third party, form whom, it has been transferred ultimately to the hands of the petitioner, therefore, as on date, the petitioner is only having the possessory right or lease hold right and based on which, already a part of the property has been assessed for property tax as well as professional tax. Therefore, the remaining part of the property can very well be assessed in the same line by the second respondent/Panchayat for which, though representation has been given on 14.09.2021, since the same has not been considered by the second respondent, a suitable direction can be given to the second respondent to consider the request of the petitioner on merits within a time framed, he contended.

6.Per contra, Mr.R.Ragavendran, learned Government Advocate appearing for the respondents, on instructions, would submit that, admittedly, the petitioner is not the owner of the property and even in respect of the possessory right or lease hold right is concerned, that should have been obtained properly from the original owner of the property and the petitioner admittedly has claimed to have got the possessory right only from some third party, therefore, in this regard, whether the petitioner is having right over the property even as a lease holder, is a question.

7.In this context, it is the original owner one Vairavan Chettiyar and some others also claiming the ownership of the property. Therefore, unless and until they are heard, the issue raised by the petitioner in his representation dated 14.09.2021 cannot be decided.

8.I have considered the said submissions made by the learned counsel appearing for the parties and perused the materials placed before this Court.

9.As has been rightly pointed out by the learned Government Advocate appearing for the respondents the petitioner is not the owner of the property concerned nor he seems to have obtained the possessory right or lease hold right directly from the owner of the property and therefore, in this context, even though a part of the property has already been assessed for property tax as well as professional tax by the second respondent, in the same fashion, whether the second respondent can be compelled by way of a direction by this Court to act upon on the representation of the petitioner dated 14.09.2021 is a question.

10.In this context, it is submitted by Mr.B.Jameel Arasu, the learned counsel appearing for the petitioner that, if at all the second respondent before considering the request of the petitioner wants to hear the original owner of the property or another person claiming ownership of the property, they can issue notice to them and after hearing them, the second respondent can decide the request made by the petitioner.

11.In that view of the matter, by taking into account the said submission made by both sides, especially, the learned counsel appearing for the petitioner, this Court is inclined to dispose of this Writ Petition with the following orders.

12.That there shall be a direction to the second respondent to consider the representation of the petitioner dated 14.09.2021 after hearing not only the petitioner but also the original owner of the property or owners, if more than one persons come forward to claim the ownership of the property by giving proper notices to them and thereafter can decide as to whether, the property in question is liable to be assessed for property tax and in that case, in the name of the original owner, the property tax can be assessed and the possessory right, if any claimed by the petitioner can be recognized only as a tenant or lease holder, after getting the concent from the original owner of the property that can also be recognized for the purpose of assessing the professional tax from the petitioner in this regard. The needful as has been indicated shall be undertaken by the second respondent within a period of thirty days from the date of receipt of a copy of this order.

13.With this direction, this Writ Petition is disposed of. However, there shall be no order as to costs.

Sd/-

Assistant Registrar (AD-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

ias/mga

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The Block Development Officer,
   Gandharvakottai,
   Pudukottai District.

2. The President,
   Gandharvakottai Village Panchayat,
   Gandharvakottai,
   Pudukottai District.

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